UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
--X
                                                :

OMAR MINUS,   :

                   Plaintiff,   :

                                               :   17-CV-4623 (JMF)

          -v-   :

                                               :   <u>ORDER</u>

OFFICER BRIAN BENVENUTO and   :
OFFICER JOSEPH TENNARIELLO,   :

                     Defendants.   :

                                               :
--X

JESSE M. FURMAN, United States District Judge:

       During the final pretrial conference held earlier today, both sides waived their right to a jury

trial and consented to a non-jury trial. Accordingly, the trial — which will begin on **Thursday,**

February 10, 2022, at **9:30 a.m.**, in **Courtroom 26B** of the **Daniel Patrick Moynihan United States**

Courthouse, 500 Pearl St., New York, NY — will be conducted as a bench trial. Plaintiff is

reminded that if he fails to appear for trial at that time, his remaining claim will be dismissed for

failure to prosecute and/or as abandoned.

       As discussed on the record at the final pretrial conference, under the Court's current COVID-19

protocols, no one may unmask in the courtroom — even in the HEPA-filter-outfitted witness and

attorney boxes — unless they have tested negative for COVID-19 using an approved molecular

diagnostic test. (Antigen tests are not approved.) If a person will be removing his or her mask on

successive days, the person may test on an every-other-day schedule; otherwise, the speaker must test

negative on the day of his or her appearance. If a speaker has had a confirmed case of COVID-19

(verified by either a doctor's note or a viral test result) within the prior ninety days, he or she will be

exempted from these testing requirements. Confirmation of negative test results (or of a prior case of

COVID-19) must be provided to the Court through its staff.

The following is a list of the tests that are approved:

- PCR / RT-PCR / ddPCR / Rapid PCR (Polymerase Chain Reaction)
- NAA / NAAT (Nucleic Acid Amplification)
- AMP PRB (Amplified Probe)
- LAMP (Loop-mediated Isothermal Amplification)
- Accepted molecular diagnostic test brands, including but not limited to:
    - Abbott ID NOW
    - Quidel Lyra PCR
    - Abbott Realtime PCR
    - Cobas Qualitative PCR
    - FTD PCR
    - Xpert Xpress
    - Simplexa Direct PCR
    - RUCDR Infinite Biologics
    - Lucira Health

The following are tests that are NOT approved:

- All tests that do not have FDA authorization or approval
- All Antigen (Ag) tests (including but not limited to Quidel Sophia, Abbott BinaxNOW and Rapid Antigen Tests)
- All Antibody tests (such as IgG, IgA, IgM and Rapid Antibody Tests)
- All blood tests (such as fingerstick, venipuncture)
- All plasma tests
- All serum tests
- All lateral flow tests
- Any doctor's note

To conduct a test through the Court, the person being tested should report **at least one hour before the time he or she needs to appear for trial** to Courtroom 6A in the Daniel Patrick Moynihan Courthouse, 500 Pearl Street, New York, NY. Anyone needing assistance or further information can contact Joseph Pecorino in the District Executive's Office at 212-805-0500.
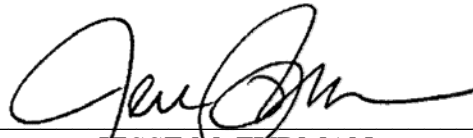
As noted on the record, the parties should assume that there will be no opportunity to submit any written materials following trial. Accordingly, if there is any additional authority or arguments that a party wishes to bring to the Court's attention in writing, the party should file it before trial begins. (As noted, the parties will be given a brief opportunity to argue to the Court at the conclusion of the witnesses' testimony.) In Plaintiff's case, he is encouraged to submit any filings as a PDF

attachment to an email to Temporary_Pro_Se_Filing@nysd.uscourts.gov to ensure that the Court

receives them in a timely fashion. Plaintiff is also encouraged to consent to receive all court

documents electronically. A Consent to Electronic Service Form is available on the Court's website at

https://nysd.uscourts.gov/sites/default/files/2018-06/proseconsentecfnotice-final.pdf.

The Clerk of Court is directed to mail a copy of this Order to Plaintiff. Further, defense

counsel is ORDERED to **immediately** email it to Plaintiff and file proof of such service on ECF.

SO ORDERED.

Dated: February 8, 2022
       New York, New York

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JESSE M. FURMAN
United States District Judge